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Alexandria, VA 22313-1450

Or faxed to: 571.273.8300

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT APPLICATION OF JOHN CHOATE *John Choate*

APPLICATION NO: 10/780,476
FILED: FEBRUARY 16, 2004

CONFIRMATION NO: 1542
ART UNIT: 3736
EXAMINER: J. HOEKSTRA

FOR: APPARATUS THAT IMPROVES DISCOVERY OF CANCER MASS, AND REDUCES INFLAMMATION –
ONSET OF SYMPTOMS OF CARPAL TUNNEL SYNDROME OR ARTHRITIS – TACTILE DEFICIT OF FINGERS,
AND INCREASE DISCOVERY OF FOREIGN MASS IN BREAST AND SELF EXAMINATIONS, ETC.

Renewed Petition pursuant to 37 CFR 1.137(b)

1. I previously filed a petition under 1.183, mailed on April 12, 2007 from Arlington, but not stamped in as received by the USPTO until the date of April 16, 2007, which petition was dismissed on August 6, 2007; then a notice of abandonment was mailed to me on September 12, 2007, then I filed a petition under 1.181 on October 1, 2007, which was dismissed on Oct 26, 2007, to which I replied on December 14, 2007, which reply was denied on February 19, 2008, and which reply directed the filing of a Petition To Withdraw Holding of Abandonment pursuant to 1.137. I so filed, and received a Decision on Petition pursuant to 37 CFR 1.137(a) dated March 28, 2008, which directed filing of a Petition for Revival of abandoned application pursuant to 37 CFR 1.137(b). By Decision of May 12, 2008, the March 28, 2008 petition was not accepted for lack of two slash marks by the name. The May 12, 2008 decision directed refiling of this Renewed Petition pursuant to 37 CFR 1.137(b)

2. I incorporate all previous petitions by reference.

Renewed Petition pursuant to 37 CFR 1.137(b) should be addressed as follows:

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2. I never received an office action of October 13, 2006. As I recall, while at the Post office, I directed, in writing, on their forwarding form, the Old Greenwich Post Office to forward my mail from Box 200 to the Arlington Rosslyn Post Office Box 9949, sometime in September or October 2005. I continued paying on the Box 200 to keep it open through 2006 and 2007. The Old Greenwich Post Office forwarding stopped or was misforwarded, without notice to me or warning that mail was presumably returned to sender, or misforwarded, and I have not heard from the USPTO that it ever had the October 2006 office action returned. I don't know what happened to it. I discussed my forwarding difficulty with the Post master, or some official, at Old Greenwich, who explained the postal workers were hired from the Bronx. I attempted to notify the USPTO in Stamford and Old Greenwich of my change of address, but this failed to keep the mail forwarded, and the March 28, 2008 decision said this was unreasonable. I kept my house in Stamford, but took work in Arlington and began moving household effects about August 2005. I was not there, in Stamford or Old Greenwich, on a

John Choate

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daily basis to collect mail, but could have collected it monthly if I had any idea this was going to be such a loss, problem, and inconvenience. I was advised of the discovery of the October 2006 office action on or about the week of April 12th 2007, and I mailed the letter as noted above but failed to simultaneously include the certificate of mailing statement, even though the reply was sent by certified mail, but not picked up for 4 more days, and was advised in the March 28, 2008 decision this was unreasonable.

3. 37 CFR 1.137 Revival of abandoned application, terminated reexamination proceeding, or lapsed patent.

(b) *Unintentional*. If the delay in reply by applicant or patent owner was unintentional, a petition may be filed pursuant to this paragraph to revive an abandoned application*** A grantable petition pursuant to this paragraph must be accompanied by: (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in § 1.17(m); (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to paragraph (b) was unintentional. I previously submitted the extension fees, and the certified mail receipt of the US Post Office satisfies the actual fact that the letter was mailed on time. The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 1.137 paragraph was unintentional. Why would I want to delay the patent 4 years? Can the time be recovered? I consider the USPTO Rule which does not honor the validity of the USPS certified mail receipt to be unreasonable. I am not aware of any other agency which ignores the certified mail receipt.

4. As I mailed it from Arlington Virginia, I had a reasonable basis to expect the response to be delivered the next day, April 13, 2007, in Alexandria to the Post Office. In fact, it may have been so delivered, although not stamped in by the USPTO until Monday April 16th. I have not been advised from the USPTO that the mail is time stamped the same day it arrives in the Post Office.

5. The response [April 12, 2007] has been copied and filed on the PAIR as of 4-16-2007, including Amendment, Specification, abstract, claims, and extension of time form and fee. At that time I filed a petition to waive fee, with an appropriate fee, which petition was dismissed, on 8-6-2007.

6. I certify on April 7, 2008, I ordered \$770 fees for this Petition, to be mailed by first class postage prepaid mail. Signed /John Choate/

I Certify I am faxing this petition and supporting documents to Mail Stop: Petition Commission for Patents [P.O. Box 1450 Alexandria, VA 22313-1450] Or faxed to: 571.273.8300 this date. /JOHN CHOATE/

I CERTIFY I FAXED THIS PETITION AS DESCRIBED. /JOHN CHOATE/ PO Box 9949, ARLINGTON VA 22219-9949 703-241-2343 MAY 16, 2008 FEES: SMALL ENTITY \$770, 37 CFR 1.17(m) paid.



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OFFICE OF PETITIONS

In re Application of :
John I. M. Choate :
Application No. 10/780,476 :
Filing Date: February 16, 2004 :
Title: APPARATUS THAT IMPROVES :
DISCOVERY OF CANCER MASS, AND :
REDUCES INFLAMMATION - ONSET OF :
SYMPTOMS OF CARPAL TUNNEL :
SYNDROME OR ARTHRITIS - TACTILE :
DEFICIT OF FINGERS, AND :
INCREASES DISCOVERY OF FOREIGN :
MASS IN BREAST AND OTHER SELF :
EXAMINATIONS :

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.137(B)

This is a decision on the petition filed, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

Background

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 13, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 14, 2007. A notice of abandonment was mailed on September 12, 2007.